

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AMYRIS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-11131 (TMH)

(Jointly Administered)

Ref. Docket Nos. 465 & 536

**CERTIFICATION OF COUNSEL REGARDING PROPOSED ORDER APPROVING
STIPULATION RESOLVING MOTION OF DSM-FIRMENICH TO COMPEL
DEBTORS' COMPLIANCE WITH SECTION 365(n)(4) OF THE BANKRUPTCY CODE**

On October 4, 2023, DSM Nutritional Products Ltd. and its affiliates (including Firmenich S.A.) (collectively, “DSM-Firmenich”) filed the *Motion of DSM-Firmenich to Compel Debtors’ Compliance with Section 365(n)(4) of the Bankruptcy Code* (the “Motion”)² [Docket No. 465]³ with the United States Bankruptcy Court for the District of Delaware (the “Court”).

On October 13, 2023, the Debtors filed the *Debtors’ Objection to Motion of DSM-Firmenich to Compel Debtors’ Compliance with Section 365(n)(4) of the Bankruptcy Code* [Docket No. 536] (the “Objection”). In addition, DSM-Firmenich also received informal responses to the Motion from Givaudan SA, and Givaudan International SA (together, “Givaudan” and together with the Debtors, the “Responding Parties”).

Subsequent to receiving the Objection and the informal response from Givaudan, DSM-Firmenich engaged in good faith negotiations with the Responding Parties regarding their

¹ A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://cases.stretto.com/amyris>. The location of the Debtor Amyris Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Cases is 5885 Hollis Street, Suite 100, Emeryville, CA 94608.

² Capitalized terms used but not otherwise defined herein shall have their meanings given to them in the Motion.

³ A redacted version of the Motion was filed at Docket No. 466.

respective responses. As a result of those discussions, DSM-Firmenich and the Responding Parties have reached an agreement on the terms memorialized in the stipulation (the “Stipulation”) annexed as Exhibit 1 to the proposed form of order attached hereto as Exhibit A (the “Proposed Order”). Exhibits to the Stipulation are being filed under seal, with the consent of the Responding Parties, consistent with the relief sought in that certain *Motion of DSM-Firmenich for Entry of an Order Authorizing DSM-Firmenich to File Under Seal Certain Information Contained in the Motion of DSM-Firmenich to Compel Debtors’ Compliance with Section 365(n)(4) of the Bankruptcy Code* [D.I. 479].

The Responding Parties have reviewed the Proposed Order and consent to entry thereof. Accordingly, DSM-Firmenich respectfully requests that the Court enter the Proposed Order at its earliest convenience.

[Signature Page Follows]

Dated: October 17, 2023
Wilmington, Delaware

Respectfully submitted,
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⁴ Not admitted in Illinois. Admitted in New York.

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AMYRIS, INC., *et al.*⁵

Debtors.

Chapter 11

Case No. 23-11131 (TMH)

(Jointly Administered)

Ref. Docket Nos. 465 & 536

**ORDER APPROVING STIPULATION RESOLVING MOTION OF
DSM-FIRMENICH TO COMPEL DEBTORS' COMPLIANCE
WITH SECTION 365(n)(4) OF THE BANKRUPTCY CODE**

This Court having considered the *Stipulation Resolving Motion of DSM-Firmenich to Compel Debtors' Compliance with Section 364(n)(4) of the Bankruptcy Code*, a copy of which is attached hereto as **Exhibit 1** (the “Stipulation”), and this Court having determined that good cause exists for approval of the Stipulation,

IT IS HEREBY ORDERED that:

1. The Stipulation is approved in its entirety.
2. Notwithstanding Fed. R. Bankr. P. 4001(a)(3), this Order shall be effective

immediately upon its entry.

⁵ A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors' proposed claims and noticing agent at <https://cases.stretto.com/amyris>. The location of the Debtor Amyris Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 5885 Hollis Street, Suite 100, Emeryville, CA 94608.

3. This Court retains jurisdiction over any and all matters arising from or related to the implementation or interpretation of the Stipulation or this Order.

Exhibit 1

Stipulation

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AMYRIS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-11131 (TMH)

(Jointly Administered)

Related Docket Nos. 465 and 532

**STIPULATION RESOLVING MOTION OF DSM-FIRMENICH TO COMPEL
DEBTORS' COMPLIANCE WITH SECTION 365(n)(4) OF THE BANKRUPTCY CODE**

This *Stipulation Resolving Motion of DSM-Firmenich to Compel Debtors' Compliance With Section 365(n)(4) of the Bankruptcy Code* (“Stipulation”)² is entered into by and among Amyris, Inc. (“Amyris”), DSM Nutritional Products Ltd. (“DSM Nutritional”), Firmenich S.A. (“Firmenich” and together with DSM Nutritional, “DSM-Firmenich”), Givaudan SA, and Givaudan International SA (together, “Givaudan”).³

RECITALS

A. Amyris and DSM Nutritional are parties to that certain *License and Drawing Rights Agreement* (“LDRA”), dated March 31, 2021.

B. Amyris and Firmenich S.A. are parties to, among other agreements, (i) that certain *Collaboration Agreement*, dated March 13, 2013 (as amended, the “Firmenich Collaboration Agreement”) and that certain *Escrow Agreement*, dated August 22, 2013 (as amended, the

¹ A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://cases.stretto.com/amyris>. The location of Debtor Amyris Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Cases is 5885 Hollis Street, Suite 100, Emeryville, CA 94608.

² A capitalized term used but not defined herein shall have the meaning ascribed to it in the Motion (defined below).

³ Amyris, DSM-Firmenich, and Givaudan are referred to herein as the “Parties.”

“Firmenich Escrow Agreement” and together with the LDRA and Firmenich Collaboration Agreement, the “DSM-Firmenich Agreements”).

C. Amyris, Givaudan International, SA, and SciSafe Inc. are parties to that certain *Strain Escrow Agreement*, dated September 28, 2018 (the “Givaudan Escrow Agreement”).

D. On October 4, 2023, DSM-Firmenich filed the *Motion of DSM-Firmenich to Compel Debtors’ Compliance with Section 365(n)(4) of the Bankruptcy Code* [Docket No. 465] (the “Motion”).

E. On October 13, 2023, Amyris filed its objection [Docket No. 532] (the “Objection”) to the Motion.

F. The Parties have met and conferred and desire to enter into this Stipulation to consensually resolve the Motion.

STIPULATION

IT IS HEREBY STIPULATED AND AGREED THAT:

1. Upon entry of an Order approving this Stipulation, the Motion is deemed withdrawn without prejudice. In the event DSM-Firmenich files a motion to enforce the Order, the Debtors consent to a hearing on such motion on an expedited basis.

2. On or before October 27, 2023, or such later date mutually agreed to by Amyris and DSM-Firmenich, Amyris shall deposit into escrow with SciSafe Inc., pursuant to and subject to the Firmenich Escrow Agreement, the materials identified on Exhibit A annexed hereto.

3. On or before November 10, 2023, or such later date mutually agreed to by Amyris and Givaudan, Amyris shall deposit into escrow with SciSafe Inc., pursuant to and subject to the Givaudan Escrow Agreement, the materials identified on Exhibit B annexed hereto.

4. Amyris shall perform all of its obligations under the DSM-Firmenich Agreements, unless and until the entry of an order rejecting such DSM-Firmenich Agreements pursuant to section 365 of the Bankruptcy Code.

5. On or before October 23, 2023, or such later date mutually agreed to by Amyris and DSM-Firmenich, Amyris, Firmenich, and DSM Nutritional shall execute an amendment to the Firmenich Escrow Agreement adding DSM Nutritional as a party pursuant to Section 3.5 of the LDRA.

6. On or before October 27, 2023, or such later date mutually agreed to by Amyris and DSM-Firmenich, Amyris, Givaudan, and DSM Nutritional shall execute an amendment to the Givaudan Escrow Agreement adding DSM Nutritional as a party pursuant to Section 3.5 of the LDRA. In the event Amyris and DSM Nutritional mutually agree to revise their supply arrangements so that Amyris has no obligation to supply to DSM Nutritional those ingredients that are the subject of the Givaudan Escrow Agreement, then DSM Nutritional agrees to execute an amendment to the Givaudan Escrow Agreement agreeing that it shall no longer be a party thereto.

7. In the event the Parties are unable to agree on the amendment to the Firmenich Escrow Agreement and/or the Givaudan Escrow Agreement as provided in paragraphs 5 and 6 above, then the Parties agree that any Party may bring the matter to the Court seeking expedited consideration of any remaining disputes. The Parties agree that any further briefing in advance of such hearing shall not exceed five pages.

8. Nothing in this Order shall prejudice, impair or otherwise restrict the rights of Givaudan under any existing license of intellectual property, agreement supplementary thereto, or any other agreements between Amyris and Givaudan, and nothing in this Order shall prejudice, impair or otherwise restrict the rights of Givaudan under any existing license of intellectual

property, agreement supplementary thereto or any other agreements where Givaudan and DSM-Firmenich are party thereto, and all such rights are expressly preserved.

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Dated: October 17, 2023

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Dated: October 17, 2023

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Dated: October 17, 2023

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Exhibit A

Filed Under Seal

Exhibit B

Filed Under Seal